

## AN ACT

ENTITLED, An Act to revise certain provisions regarding the permitting and the regulation of shooting preserves and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 41-10-1 be amended to read as follows:

41-10-1. Terms used in this chapter mean:

- (1) "Commission," the Game, Fish and Parks Commission, acting directly or through its duly authorized officers or agents;
- (2) "Department," the Department of Game, Fish and Parks, acting directly or through its duly authorized officers or agents;
- (3) "Person," includes individuals, copartnerships, associations, and corporations;
- (4) "Shooting preserve," any acreage either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

Section 2. That § 41-10-2 be amended to read as follows:

41-10-2. The department may issue and renew shooting preserve operating permits for privately owned and operated shooting preserves.

Section 3. That § 41-10-3 be amended to read as follows:

41-10-3. Any person owning, holding, or controlling, by lease or otherwise, any contiguous tract of land of not more than two thousand five hundred sixty acres, who desires to establish a shooting preserve under the regulations provided in this chapter, may make application to the department for a shooting preserve operating permit. The application shall be made by the applicant or the applicant's agent or attorney, and shall be accompanied by a fee which is determined as provided by § 41-10-4.

Section 4. That § 41-10-4.5 be amended to read as follows:

41-10-4.5. Upon receipt of a written application for a new shooting preserve operating permit, the department shall notify the public of the application by publishing notice of the time and manner in which interested persons may present data, opinions, or arguments in writing to the department on the application and the manner in which interested persons may request status as an interested party and request receipt of written notice of the decision of the department. The department shall publish the notice once at least twenty days prior to the time designated by the department in the published notice in at least three newspapers of general circulation in areas of the state likely to be affected by the proposed permit. No more than ten days after the time designated by the department in the published notice, the department shall provide and mail by certified mail, return receipt requested, written notice of its decision made in accordance with the requirements of § 41-10-7 to the applicant and to any person who submitted within the prescribed time and manner data, opinions, or arguments in writing to the department in opposition to issuance of the new operating permit and who requested the status as an interested party in accordance with this section and the published notice. The date that written notice of the decision is mailed to the applicant and to an interested person who requested the status of an interested party constitutes the respective date notice of application denial or approval has been provided as referenced in sections 9 and 10 of this Act.

Section 5. That § 41-10-6 be amended to read as follows:

41-10-6. Upon receipt of the application for a shooting preserve operating permit, the department shall inspect the area described in the application, the premises, and the facilities. The department also shall evaluate the ability of the applicant to operate an area of this character.

Section 6. That § 41-10-7 be amended to read as follows:

41-10-7. If the department is satisfied that all of the following criteria have been established by the applicant:

- (1) The applicant for a shooting preserve operating permit proposes to comply with all of the

provisions of this chapter;

- (2) The applicant is financially able to provide the necessary facilities and services to operate a shooting preserve;
- (3) The preserve shall be open to the general public without restrictions as to race, color, or creed;
- (4) The operation will not work a fraud upon persons who are permitted to hunt thereon;
- (5) The operation is not designed to circumvent game laws and regulations;
- (6) The issuance of the permit will be in the public interest;
- (7) The applicant is a resident of the state;
- (8) The applicant does not operate or own any interest in more than one shooting preserve comprised of a contiguous tract of land of more than one thousand two hundred eighty acres nor more than two shooting preserves each of which are comprised of a contiguous tract of land of one thousand two hundred eighty acres or less; and
- (9) The preserve for which an operating permit is requested is at least one mile from any game production area or other publicly owned shooting area, or if located within one mile of such areas, the preserve would not take unfair advantage of wildlife habitat developments or wildlife population existing on those areas, or would not otherwise be detrimental to the public interest;

the department shall approve the application and issue a shooting preserve operating permit for the operation of a shooting preserve on the property described in the application with the rights and subject to the limitations prescribed in this chapter and the commission rules promulgated pursuant to this chapter. However, the provisions of subdivisions (7) and (9) of this section do not apply to any shooting preserve licensed pursuant to this chapter, prior to July 1, 1986.

Section 7. That § 41-10-14 be amended to read as follows:

41-10-14. Within the limits set by the commission, in rules promulgated pursuant to chapter 1-26, the shooting preserve operator may establish shooting hours and limitations and restrictions on the age, sex, number, and type of each game species that may be taken by each person. The operator may establish the fees to be charged to the operator's guests.

Section 8. That § 41-10-16 be amended to read as follows:

41-10-16. Any person licensed to hunt a species as required by this chapter may harvest and legally possess pen raised or wild game shot on a shooting preserve if the game is tagged as directed by the commission in rules promulgated pursuant to chapter 1-26. The provisions of this section relating to issuance of tags and remittance of tag fees, shall be administered by the department pursuant to commission rules adopted pursuant to § 41-2-18. The cost of each tag to the shooting preserve operator shall be established by the commission in rules promulgated pursuant to chapter 1-26.

Section 9. That chapter 41-10 be amended by adding thereto a NEW SECTION to read as follows:

If an applicant is denied a shooting preserve operating permit by the department, the applicant may make a written request to the department for a contested case hearing before the commission pursuant to chapter 1-26. The written request shall be mailed to the department by certified mail, return receipt requested, on or before ten days have elapsed from the date that the notice of application denial has been provided and mailed to the applicant by certified mail, return receipt requested.

Section 10. That chapter 41-10 be amended by adding thereto a NEW SECTION to read as follows:

If an applicant is granted a new shooting preserve operating permit by the department, any interested person who has requested the status of an interested party and who has presented data,

opinion, or arguments in writing to the department pursuant to the requirements in § 41-10-4.5 may make a written request to the department for a contested case hearing before the commission pursuant to chapter 1-26. The written request shall be mailed to the department and the applicant by certified mail, return receipt requested, on or before ten days have elapsed from the date that the notice of application approval has been provided to the interested party.

Section 11. That ARSD 41:09:01:01 be amended to read as follows:

41:09:01:01. Operation plan to be submitted with application. A person submitting an application for a shooting preserve permit shall submit with the application a detailed plan of operation for the proposed private shooting preserve for approval of the department.

Section 12. That ARSD 41:09:01:06 be amended to read as follows:

41:09:01:06. Applications - New and renewal -- Appeal process for renewal applications. Applications for new shooting preserves and renewal applications for existing shooting preserves must be received in the Pierre office of the department no earlier than January 1 and no later than March 1 of the year the shooting preserve operation is to begin.

Section 13. That ARSD 41:09:01:06.01 be repealed.

Section 14. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise certain provisions regarding the permitting and the regulation of shooting preserves and to declare an emergency.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1049

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1049  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State